

SIKKIM



GOVERNMENT

GAZETTE

EXTRAORDINARY

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK
NOTIFICATION

No. 3/LD/1987

Dated the 18th March, 1987.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 13th day of March, 1987 is hereby published for general information:—

SIKKIM SEWERAGE AND SEWAGE DISPOSAL ACT, 1987

(ACT No. 2 OF 1987)

AN

ACT

to provide for regulation of Sewerage and Sewage Disposal and for matters connected thereto.

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-eighth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Sikkim Sewerage and Sewage Disposal Act, 1987.

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different areas or different provisions of this Act.

Definitions.

2. In this Act, unless the context otherwise requires,—

(i) “Cess pool” includes a settlement tank or other tank to receive or dispose of foul matters from any premises;

(ii) “Chief Engineer-cum-Secretary” means the Chief Engineer-cum-Secretary to the Government of Sikkim, in the Buildings, Public Health Engineering and Housing Department;

(iii) “Competent Authority” means the Chief Engineer-cum-Secretary, in the Buildings, Public Health Engineering and Housing Department of the Government of Sikkim or any other officer authorised by him in his behalf;

- (iv) "Department" means the Buildings, Public Health Engineering and Housing Department in the Government of Sikkim;
- (v) "Drain" means a sewer, tunnel, pipe, ditch, gutter or channel or any cistern, flush tank, septic tank or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water or sub-soil water and includes any culvert, ventilation-shaft or pipe or other appliances or fittings connected with such drain, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place;
- (vi) "Government Sewer main" means any pipe or system of pipes alongwith all fittings thereto laid by the State Government by means of which Sewage is transported from any premises to its final disposal point;
- (vii) "Occupier", in relation to any premises, means the following—
 - (a) any person for the time being paying or liable to pay rent or any portion thereof to the owner in respect of those premises;
 - (b) an owner who is in occupation of those premises;
 - (c) a tenant of those premises who is exempted from payment of rent;
 - (d) a licensee who is in occupation of those premises; and
 - (e) any person, who is liable to pay damages to the owner in respect of use and occupation of those premises;
- (viii) "Owner" in relation to any premises, means the person who receives the rent of the said premises or who would be entitled to receive the rent thereof if the premises were let out and includes—
 - (a) an agent or trustee who receives the rent on account of the owner;
 - (b) an agent or trustee who receives the rent of, or is entrusted with the management of any premises devoted to religious or charitable purposes;
 - (c) a receiver or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of the said premises; and
 - (d) a mortgagee in possession;
- (ix) "premises" means any land and/or building or any part thereof;
- (x) "prescribed" means prescribed by rules;
- (xi) "sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cesspools or drains and polluted water from sinks, bathrooms, stables and other like places and includes trade effluent;
- (xii) "sewer" means closed or open conduit for carrying sewage, offensive matter, polluted water, waste water, or sub-soil water;
- (xiii) "sewerage" means a system of collection of waste water from community from its houses, institutions, industries and public places, pumping, treatment, utilization and disposal of such waste water, its effluent, sludge, gas and other products;

(xiv) "Trade Effluent" means any liquid either with or without particles of matters in suspension or dissolved therein, which is wholly or in part produced or discharged in the course of any trade or industry, including agriculture and horticulture, but it does not include domestic sewage; and

(xv) "User" means any person getting the benefit of any sewerage service from the Department.

Vesting of public drain in the department.

3. (1) (a) All public drains, all drains in alongside or under any public street except those constructed alongside the National Highways declared as such under National Highways Act, 1956.

(b) All Sewage disposal works whether constructed by the Department or otherwise, and all works, materials and things appertaining thereto, shall vest in the Department.

(2) For the purposes of enlarging, deepening or otherwise repairing, maintaining any such drains or sewage disposal work so much of the sub-soil appertaining thereto as may be necessary for the said purposes shall be deemed also to vest in the Department.

(3) All drains and ventilation-shafts, pipes and all appliances and fittings connected with the sewerage, drainage works constructed/erected or set up out of the Department fund or upon premises not belonging to the Department, whether —

(a) before or after the commencement of this Act, and

(b) for the use of the owner or occupier of such premises or not,

shall, unless the Department has otherwise determined, vest and be deemed always to have vested in the Department.

Right of owner or occupier to obtain Sewer Connection.

4. The owner or occupier of any premises shall be entitled to empty sewage of the premises into Government Sewer main provided that, before doing so, he —

(a) obtains connection from the department on payment of connection fee and other charges as may be prescribed; and

(b) complies with such other conditions as may be specified.

Charges for Sewerage services.

5. The Government may, from time to time, by notification, fix the rate or rates of charges for sewerage services on the basis of number of connection points, number of lavatories, size of house connections or quantity of sewage flow as may be assessed by the Department.

Levy of Sewerage Tax.

6. For the purposes of this Act, the Government shall levy, on premises situated in an area where sewerage service is made by it, a tax at such rate not being less than one per cent. and not more than ten per cent. of the assessed annual value of the premises as the Government may, from time to time, by notification, specify and different rates of tax may be specified for different areas after taking into consideration the economic condition of the people residing in that area:

Provided that no such tax shall be levied and collected in any area where such tax is already being collected by any local authority under the provisions of any Sikkim Law.

Assessment of annual value.

7. (1) For the purposes of section 6, annual value means five per cent. of the market value of the premises:

Provided that the annual value in the case of premises occupied by the owner himself, shall be deemed to be twenty per cent. less than the annual value otherwise determined under this section.

- (2) The annual value of premises for the purpose of levy of sewerage tax shall be assessed by such officer or authority as the competent authority may, by general or special order, direct.
- (3) Until an assessment of the annual value of premises in any area is made by an officer or authority referred to in sub-section (2), the annual value of the premises in that area as assessed by the local authority for the purpose of levy of house tax shall be deemed to be the annual value of the premises for the purposes of this Act as well.

Power to require owner to have Sewer connections.

8. Where any premises are, in the opinion of the Department, without sufficient means of effectual disposal of sewage and the Government Sewer main is situated at a distance of not more than hundred meters from any part of the premises, the Department may, by written notice, require the owner of the said premises to have sewer connection.

Power to lay or carry sewer lines.

9. The Government may lay or carry any sewer, for the purposes of arranging or maintaining sewerage system, through, across, under or over any road or street or a place laid out as, or intended to be laid out as, a road or street or any other place under the control of a local authority or any person, and at all times do all acts and things which may be necessary or expedient for repairing or maintaining such sewer system in an effective state for the purpose for which the same may be used:

Provided that such work shall be carried with least annoyance to the public and within a reasonable time:

Provided further that reasonable compensation as may be determined by the Government shall be paid to the owner or the local authority, as the case may be, for any damage sustained by him or it and directly occasioned by carrying out of any such operations:

Provided also that the competent authority shall cause not less than seven days' notice in writing to be given to the owner or the local authority, as the case may be, before commencing of any operations under this section except in cases where immediate action is considered necessary, then, the competent authority may, by order and for reasons to be recorded in writing, dispense with the notice.

Prohibition of connection with Sewer Main.

10. No person shall, make or cause to be made any connection or communication with any Government Sewer main.

Prohibition of construction of street or building over sewer without permission.

11. No person shall, without the permission of the Department, construct any private street, buildings or other structure on any Government Sewer main.

Prohibition of certain acts.

12. No person shall —

- (1) wilfully obstruct any person acting under the authority of the Department in setting out the lines of any work or pull up or remove any pillar, post or stay fixed in the ground for the purpose of setting out the lines of such works or deface or destroy any work made for the said purposes; or
- (2) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, valve, pipe or other works or apparatus belonging to the Department and pertaining to its duties and functions under this Act and the rules made thereunder; or

- (3) unlawfully obstruct the flow of, or flush, draw off or divert or take sewage from any works belonging to the Department; or
- (4) obstruct any officer or staff of the Department in discharge of his duties under this Act and the rules made thereunder or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to sewerage works.

Power to affix shaft etc. for ventilation of sewer or cess-pool.

13. The Department may, for the purpose of ventilating any sewer or cess-pool, whether vested in the Department or not, erect upon any premises or affix to the outside of any building, or to any tree, any shaft or pipe as may appear to it to be necessary.

Power to examine and test sewer etc. believed to be defective.

14.(1) Where it appears to the Department that there are reasonable grounds for believing that a private sewer or cess-pool is in such condition to be prejudicial to public health or to be a nuisance or that the private sewer communicating directly or indirectly with a Government sewer main is so defective as to admit sub-soil water or grit or other materials, the Department may examine its condition and for that purpose may apply any test, and if it deems it necessary, open the ground.

- (2) If on examination the sewer or cess pool is found to be in proper condition, the Department shall, as soon as possible, reinstate any ground which has been opened by it and determine and pay compensation for the damage caused by it.

Power of entry, survey etc.

15. (1) Any officer or staff of the Department authorised by it in that behalf, may, with or without assistants or workmen, enter into or open any premises in order—

- (a) to make any inspection, survey, measurement, valuation or inquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set out the boundaries and the intended line of work;
- (e) to make such levels, boundaries and lines by placing marks and cutting trenches; or
- (f) to do any other thing necessary for the purpose of this Act or any rules made thereunder:

Provided that, in exercising the powers under this sub-section, the owner or the occupier of the premises has been given written notice atleast three days before such entry.

- (2) When any person is entitled to enter into or upon any premises in exercise of the powers under sub-section (1), he may also enter in similar manner into or upon any adjoining premises for any work authorised by or under this Act or for the purpose of depositing therein, any soil, grind stone or other materials or for obtaining access to such work or for any other purpose connected with the execution of the same.
- (3) It shall be lawful for any authorised officer or staff to make any entry into any place or cause to be opened any door, gate or other barrier—
 - (a) if he considers the opening thereof necessary for the purpose of such entry; and
 - (b) if the owner or occupier is absent or on being present refuses to open such door, gate or barrier.

Power to disinfect tanks pools and wells.

16. Any officer or servant authorised by the Department in that behalf may have any tank, pool or well, cleaned or disinfected after notice to the owner or occupier, if any, when it appears that such cleaning or disinfection will prevent or check the spread of any dangerous disease. The cost of cleaning or disinfection shall be recoverable by the Department from the owner or occupier of such tank, pool or well.

Certain matter not to be passed in the public drain.

17. (1) No person shall throw, empty, or turn into any public drain or into any drain communicating with public drain—

- (a) any matter likely to injure the drain or interfere with the free flow of its contents, or affect prejudicially the treatment or disposal of its contents; or
- (b) any chemical, refuse or waste, steam, or any liquid of a temperature higher than forty five degree centigrade being refuse or steam which, or a liquid which when so heated, is, either alone or in combination with the contents of the drain, dangerous, or the cause of a nuisance or prejudicial to health; or
- (c) any dangerous petroleum.

(2) In this section, the expression "dangerous petroleum" has the same meaning as in the Petroleum Act, 1934 (30 of 1934).

Recovery of rent, etc. as arrears of land revenue or public demand.

18. If any person refuses or fails to pay any sum due to the Department on account of tax, charge, penalty or damages or any portion of such tax, charge, penalty or damages within the time, if any, specified therefor in the order relating thereto, the department shall proceed to recover the amount due as arrears of land revenue or public demand.

Penalty.

19. Whoever contravenes any of the provisions of this Act or of any rule made thereunder or fails to comply with any notice or order issued under this Act or any rule made thereunder shall on conviction be—

- (a) punished with fine which may extend to one thousand rupees, and
- (b) with further fine which may extend to five hundred rupees for every day on which such contravention or failure continues after the conviction; or
- (c) imprisonment for a term which may extend to two years or both.

Offences by Companies.

20. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was responsible to the company for the conduct of its business as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the

company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section—

- (a) 'Company' means any body corporate and includes a firm or other association of individuals; and
- (b) 'director' in relation to a firm means a partner in the firm.

Power to arrest person committing an offence and refusing to give name and address.

21. It shall be lawful for any officer of the Department authorised by it in this behalf to arrest and hand over to the officer-in-charge of the nearest police station any person who commits or is suspected to have committed an offence punishable under Section 19 and who on demand refuses to give his true name or address or where there is reason to believe that the name or address given by him is not correct, such police officer shall adopt legal measures as may be necessary or cause that person to be taken before a Magistrate with the least possible delay.

Compounding of offences.

- 22. (1) The Chief Engineer-cum-Secretary or any other officer of the Department authorised by him either before or after the institution of proceedings for any offence punishable under this Act, accept from any person charged with such offences by way of composition of the offence a sum not exceeding three thousand rupees as he thinks proper.
- (2) On payment of such sum no further proceedings shall be taken against the said person in respect of the same offence.

Cognizance of offence.

23. No court shall take cognizance of any offence under this Act except on the complaint of the Department made within six months next after the commission of the offence.

Appeal.

24. (1) Any person aggrieved by an order made by the officer authorised by the Chief Engineer-cum-Secretary of the Department may prefer an appeal to the Chief Engineer-cum-Secretary of the Department and where such order is made by the Chief Engineer-cum-Secretary of the Department to the Government within thirty days from the date of the communication to him of such order :

Provided that the authority before whom an appeal is filed may entertain the appeal after the expiry of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the prescribed period of thirty days.

- (2) The appellate authority may, after giving the parties an opportunity of being heard, confirm, set aside or modify the order under appeal.

Protection of action taken in good faith.

25. No suit or other legal proceeding shall lie against the Government or any officer or authority empowered by the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Power to make rules.

26. The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

*Laying of rules
before the Asse-
mbly.*

27. Every rule made under this Act shall be laid as soon as may be after it is made before the Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the sessions or the successive sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule shall not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

By Order of the Governor,

B.R. PRADHAN,

Secretary to the Govt. of Sikkim,
Law Department.

(File No. 16 (213)/LD/1986.)